

**IN THE UNITED STATES DISTRICT COURT OF THE  
SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

ROBERT E. JOHNSON, et al.,

Plaintiff,

vs.

ACTAVIS TOTOWA, LLC., et al.

Defendants.

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**THIS DOCUMENT RELATES TO:**

**Case No. 2:10-cv-0705 &  
MDL Case No. 2:08-md-1968**

**APPLICATION TO APPEAR TELEPHONICALLY AT NOVEMBER 17, 2010 DOCKET  
CONFERENCE & DECLARATION OF DEAN BRETT IN SUPPORT**

Plaintiff's attorney Dean Brett seeks permission to have him or his partner appear telephonically at the Docket Conference scheduled in the above referenced matter on November 17, 2010 at 9:00 a.m. because Mr. Brett has a scheduling conflict in that he will be in a previously scheduled mediation of *Bushby v. Kramer, et al.*, Superior Court of Washington for San Juan County, cause number 10-2-05173-3, a wrongful death case involving three other law firms.

Local Rule 78.1 permits an attorney to appear telephonically with Court approval. Mr. Brett seeks such approval here. If such approval is given, Mr. Brett will make a diligent effort to be on the phone at the designated time. However, if the hearing is delayed or overlaps with the

mediation on November 17, 2010, Mr. Brett requests that the Court permit his partner to appear on his behalf. The partner will be fully familiar with the facts of the case and Mr. Brett's schedule. Alternatively, Mr. Brett requests that his appearance be excused upon his filing a detailed declaration outlining his availability and preferred trial schedule.

If permission to appear telephonically is granted, Mr. Brett will make arrangements with the Court clerk to work out a procedure, either through Court Call or other court-preferred method.

DATED: November 1, 2010.

/s/ Dean Brett

Dean Brett  
Attorney for Plaintiff  
Brett & Coats, PLLC  
P.O. Box 4196  
Bellingham, WA 98227  
Tel: (360) 714-0900  
Fax: (866) 437-0623  
Email: [dbrett@brettlaw.com](mailto:dbrett@brettlaw.com)

**DECLARATION OF DEAN BRETT**

I, DEAN BRETT, declare:

1. I am an attorney authorized to practice law in the United States District Court for the Southern District of West Virginia and licensed to practice law in the courts of the State of Washington. I am a partner at Brett & Coats and represent Robert E. Johnson, Personal Representative of the Estate of Frances L. Lambert, in the above captioned litigation. The following facts are based upon my personal knowledge and review of the file, and if called upon to testify, I would and could testify to the matters herein.

2. I have a scheduling conflict in that I am lead trial counsel on a wrongful death claim scheduled for multiparty mediation on November 17, 2010. The case is *Bushby v. Kramer, et al.*, Superior Court of Washington for San Juan County, cause number 10-2-05173-3. The mediation date was originally set between the four law firms on October 8, 2010.

I declare under penalty of perjury under the laws of the State of West Virginia and that foregoing is true and correct and that this Declaration was signed on November 1, 2010 in Bellingham, Washington.

DATED: November 1, 2010.

/s/ Dean Brett

Dean Brett  
Attorney for Plaintiff  
Brett & Coats, PLLC  
P.O. Box 4196  
Bellingham, WA 98227  
Tel: (360) 714-0900  
Fax: (866) 437-0623  
Email: [dbrett@brettlaw.com](mailto:dbrett@brettlaw.com)

### **CERTIFICATE OF SERVICE**

I hereby certify that on November 1, 2010, I or an employee under my control electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

DATED: November 1, 2010.

/s/ Dean Brett

Dean Brett  
Attorney for Plaintiff  
Brett & Coats, PLLC  
P.O. Box 4196  
Bellingham, WA 98227  
Tel: (360) 714-0900  
Fax: (866) 437-0623  
Email: [dbrett@brettlaw.com](mailto:dbrett@brettlaw.com)